

(3) Rental costs for housing and office space;

(4) Petroleum, oils and lubricants for operating vehicles and equipment;

(5) Newspapers, periodicals and books published in the cooperating country;

(6) Other commodities and services (and related expenses) that, by their nature or as a practical matter, can only be acquired, performed, or incurred in the cooperating country, e.g., vehicle maintenance, hotel accommodations, etc.

Subpart F—Waivers

§ 228.50 General.

USAID may expand the authorized source in order to accomplish project or program objectives by processing a waiver. When a waiver is processed to include a new country, area, or geographic code, procurement is not limited to the added source(s), but may be from any country included in the authorized geographic code. All waivers must be in writing.

§ 228.51 Commodities.

(a) *Waiver criteria.* Any waiver must be based upon one of the criteria listed in this section. Waivers to Geographic Code 899 or Code 935 which are justified under paragraph (a) (2) or (3) of this section may only be authorized on a case-by-case basis.

(1) Commodities required for assistance are of a type that are not produced in and available for purchase in the United States, and for waivers to Code 899 or Code 935, also not in the cooperating country, or any country in Code 941.

(2) It is necessary to permit procurement in a country not otherwise eligible in order to meet unforeseen circumstances, such as emergency situations.

(3) It is necessary to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(4) For waivers to authorize procurement from Geographic Code 941 or the cooperating country:

(i) For assistance other than commodity import programs, when the lowest available delivered price from

the United States is reasonably estimated to be 50 percent or more higher than the delivered price from a country or area included in Geographic Code 941 or the cooperating country.

(ii) For assistance other than commodity import programs, when the estimated cost of U.S. construction materials (including transportation and handling charges) is at least 50 percent higher than the cost of locally produced materials.

(iii) For commodity import programs or similar sector assistance, an acute shortage exists in the United States for a commodity generally available elsewhere.

(iv) Persuasive political considerations.

(v) Procurement in the cooperating country would best promote the objectives of the foreign assistance program.

(vi) Such other circumstances as are determined to be critical to the success of project objectives.

(b) *Additional requirements.* A waiver to authorize procurement from outside the United States of agricultural commodities, motor vehicles, or pharmaceuticals (see § 228.13, “Special source rules requiring procurement from the United States,”) must also meet requirements established in USAID directives on commodity eligibility. (USAID’s Automated Directives System Chapter 312.)

(c) Any individual transaction not exceeding \$5,000 (not including transportation) does not require a waiver. In no event, however, shall procurement be from a non-Code 935 source.

[61 FR 53616, Oct. 15, 1996; 62 FR 314, Jan. 3, 1997]

§ 228.52 Suppliers of commodities.

Geographic code changes authorized by waiver with respect to the source of commodities automatically apply to the nationality of their suppliers. A waiver to effect a change in the geographic code only with respect to the nationality of the supplier of commodities, but not in the source of the commodities, may be sought if the situation requires it based on the appropriate criteria in § 228.51.